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## MEMO ENDORSED

September 25, 2012

### VIA FACSIMILE (212) 805-7949

The Honorable P. Kevin Castel  
United States District Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

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RE: *Schwab S&P 500 Index Fund, et al. v. Bank of America Corp., et al.,*  
No. 11-CV-7779 (PKC) (included in Master File No. 09-MD-2058 (PKC))

Dear Judge Castel:

My firm represents Plaintiffs in the above-captioned action. As Your Honor is aware, this action has been consolidated and is being jointly managed with other individual securities fraud actions (the "Individual Actions") against Defendants Bank of America Corp., et al. Each of the Individual Actions is jointly subject to the Revised Civil Case Management Plan and Scheduling Order (the "Scheduling Order") entered on July 20, 2012.

In addition, however, this case was assigned to the Pilot Project Regarding Case Management Techniques for Complex Civil Cases in the Southern District of New York by Standing Order on November 1, 2011 ("Pilot Project Standing Order"). The Pilot Project Standing Order, which appears to have been automatically generated in this case, and may not be applicable to one or more of the other Individual Actions, sets various pre-trial deadlines and directives that are not necessarily in sync with those set forth in the Scheduling Order. Of immediate concern is the Pilot Project Standing Order's directive that the parties submit a Joint Preliminary Trial Report on [the] Close of Fact Discovery within fourteen (14) days after the close of fact discovery, which would put the deadline for that Report this Friday (September 28, 2012).

Accordingly, with the advice and consent of Defendants, I write to request that Your Honor indicate that the above-captioned action is exempt from the Pilot Project Standing Order, and that the case instead remains subject to the deadlines and directives contained both in the Scheduling Order generally applicable to the Individual Actions and (to the extent consistent with the Scheduling Order) the Court's Individual Rules of Practice. Should Your Honor determine, however, that the Pilot Project Standing Order is applicable to this action, the

*A motion granted  
S.O. ORDERED  
JMB 9/25/12  
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parties jointly request an extension of time to and including October 19, 2012 for submission of their Joint Preliminary Trial Report.

Thank you for your kind attention to this matter. I am available to answer any questions concerning the above.

Respectfully submitted,



Daniel P. Chiplock

cc: Robert Atkins, Esq.  
Jonathan Freedman, Esq.  
*Counsel for Bank of America Corp., et al.*